

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Susan Filipiak v Sunrise Assisted Living**
Docket No. **268314**
L.C. No. **03-000368 NI**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The claim of appeal filed February 10, 2006, is DISMISSED for lack of jurisdiction because appellant failed to file the claim within 21 days of the January 9, 2006 final order as required by MCR 7.204(A)(1)(a). It was that order that was the final order as defined by MCR 7.202(6)(a)(i) as it was the order that disposed of the last claim against the last defendant. The subsequent order that divided up the proceeds of the settlement was not the final order as that order did not dispose of any claims against defendants as is required by MCR 7.202(6)(a)(i). The fact that the trial court signed an order prepared by appellant that erroneously labeled it a final order is not binding on this Court. See *McCarthy & Associates v Washburn*, 194 Mich App 676 (1992).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 10 2006

Date

Sandra Schultz Mengel
Chief Clerk